IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

MONDAY, THE 20TH AUGUST 2007 / 29TH SRAVANA 1929

WP(C).No. 20026 of 2007(H)

PETITIONER:

MATHEW M PATHROSE,
S/O.M.M. PATHROSE, AGED 47 YEARS,
MANAGING PARTNER, M/S BLUE MOUNTAIN GRANITES,
VELLIKULANGARA, MATTATHOOR PANCHAYAT,
CHALAKUDY, THRISSUR DISTRICT.

BY ADV. SRI.K.RAMAKUMAR

RESPONDENTS:
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1. THE KERALA STATE POLLUTION CONTROL BOARD
REGIONAL OFFICE, GANDHI NAGAR, ERNAKULAM,
KOCHI 682 020, REPRESENTED BY ITS
CHIEF ENVIRONMENTAL ENGINEER.

2. THE MATTATHUR GRAMA PANCHAYAT,
PO MATTATHUR, THRISSUR DISTRICT- 680 692,
REPRESENTED BY ITS SECRETARY.

ADDITIONAL RESPONDENTS

3. STATE HUMAN RIGHTS PROTECTION CENTRE
STATE, COMMITTEE, THRISSUR- KERALA- REG. NO.R 389/2003
REP. BY ITS GENERAL SECRETARY
JOY KAITHARATH, RESIDING AT VELLIKULANGARA, THRISSUR

4. SHINY JOHNSON AGED 35, W/O JOHNSON.P.J.
POONKUTTIKKAL HOUSE
VELLIKULANGARA
TRICHUR-680 693

Additional respondents 3 and 4 impleaded vide order dated 20-08-07 in I.A.No.9904/07

5. PRESENTATION CONVENT GIRLS HIGH SCHOOL
VELLIKULANGARA
THRISSUR DISTRICT
REP. BY ITS HEADMISTRESS SR.ROSY.P.D.

Additional Respondent NO.5 impleaded vide order dtd. 20-08-2007 in I.A.No.10958/07

BY ADV. SRI.P.K.ASHOKAN FOR R2
ADV.SRI.M.K.CHANDRAMOHANDAS FOR R1
ADV. SRI.SIVAN MADATHIL FOR ADDITIONAL RESPONDENTS

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 20/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1	TRUE COPY OF THE CONSENT LETTER DTD. 16-11-06 ISSUED BY R1
EXT.P2	TRUE COPY OF THE RESOLUTION DTD. 18-11-06 PASSED BY R2 PANCHAYAT AND THE COMMUNICATION TO THE PETITIONER
EXT.P3	TRUE COPY OF THE LICENCE ISSUED BY THE ADDITIONAL DISTRICT MAGISTRATE DTD. 25-1-07
EXT.P4	TRUE COPY OF THE LICENCE ISSUED BY THE EXPLOSIVE DPT.
EXT.P5	TRUE COPY OF THE PERMIT ISSUED BY THE GEOLOGY DEPT.
EXT.P6	TRUE COPY OF THE STOP MEMO ISSUED BY R1
EXT.P7	TRUE COPY OF THE STOP MEMO ISSUED BY R2
EXT.P8	TRUE COPY OF THE ORDER DD. 16-5-07 ISSUED BY R1
EXT.P9	TRUE COPY OF THE APPLICATION DTD. 25-5-07 SUBMITTED BY THE PETITIONER BEFORE R2.

/True copy/

PA to Judge.

K.M.JOSEPH, J.

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W.P.(C).No. 20026 OF 2007

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Dated this the 20th day of August, 2007

JUDGMENT

The prayer in the writ petition is as follows:

> To issue a writ of mandamus commanding the second respondent to immediately withdraw the stop memo, Exhibit P7 and permit the petitioner to complete the work and to start the trial run of the crusher unit based on the various certificates issued by all competent authorities, forthwith.

Case of the petitioner in brief as as follows:

Petitioner is running an establishment called M/S Blue Mountain Granites. According to him, he has obtained no objection certificates from the Kerala State Pollution Control Board, Additional District Magistrate, Explosives Department, Geology Department etc. etc. The Panchayat issued Ext.P7 stop memo. Petitioner relies on Ext.P8. Ext.P8 is dated 16/05/2007. It is issued by the Environmental Engineer of Kerala State Pollution Control Board to the petitioner. It is stated in Ext.P8

that the direction in letter dated 04/04/207 withholding the 'consent to establish' issued to M/s Blue Mountain Granite is withdrawn with prospective effect subject to the additional conditions incorporated in the consent order.

Therefore stop memo cannot be issued, it is the case of the petitioner. Petitioner prays to withdraw Ext.P7 stop memo and permit the petitioner to complete the work and to start the trial run of the crusher unit based on the various certificates issued by all competent authorities. Petitioner has obtained Ext.P1 consent to establish the crusher unit. Admittedly the conditions in Ext.P8 are in addition to Ext.P1. Petitioner has approached the second respondent by filing Ext.P9 apparently on the basis of Ext.P8.

In such circumstances, the writ petition is disposed of directing the second respondent to consider and take a decision on Ext.P9 in accordance with law after hearing the petitioner and the additional respondents within a period of one month from the date of receipt of a copy of this judgment. It is open to the additional respondents to place all their objections before the second respondent.

(K.M.JOSEPH, JUDGE)

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